



OFFICE OF CONSUMER PROTECTION

Isiah Leggett
County Executive

Eric S. Friedman
Director

November 23, 2010

Mr. David Vladeck, Esq.
Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W. – Mail Drop H-466
Washington, D.C. 20580

Re: Deceptive Practices in the Mattress Industry

Dear Mr. Vladeck:

The Montgomery County Office of Consumer Protection investigates thousands of complaints each year involving automotive sales and repairs, new home purchases, home improvements, credit issues, retail sales, internet services and most other consumer transactions. Among our other responsibilities is the enforcement of Section 11-4 of the Consumer Protection Act prohibiting Deceptive Trade Practices in Montgomery County, Maryland.

For some time we have been closely following industry-wide retail advertisements in the mattress industry, which we have concluded are seriously deceptive. We are attempting to correct these practices locally. But this is a national problem which we submit should be addressed by the Federal Trade Commission.

It is almost impossible to avoid opening up a newspaper or turning on a television without encountering deceptive advertisements for mattresses. Enclosed are three typical (and similar) recent mattress advertisements in *The Washington Post*: one each from Mattress Warehouse, Mattress Land, and Sleepy's - three major mattress retailers in the Washington Metropolitan area.

As indicated by these examples, consumers are subjected to extensive advertising for mattresses allegedly being sold at "sale" prices. These sale prices are supposedly available for a limited period of time and these advertisements boldly proclaim that each retail store guarantees that it will beat the price offered by its competitors. This is, of course, is inherently impossible.

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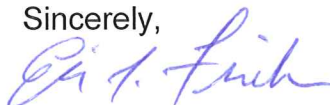
The advertisements are generally run continuously and never contain the trade names of the mattresses being advertised. Without knowing the specific names of the mattresses offered for sale, consumers cannot possibly comparison shop for mattresses manufactured by Sealy, Serta, and Simmons. But even if the trade name of each mattress were included in the advertisements, direct comparisons would still be almost impossible because each retailer sells these mattresses using exclusive names (provided by the manufacturer) for the mattresses. (This industry-wide system preventing comparative pricing is described in the enclosed column "The Haggler" by David Segal in *The New York Times* of October 10, 2010 and in a hidden-camera report by Consumer Reporter Liz Crenshaw, NBC-4 Washington, on November 22, 2010.)

Representations that each retailer will "**Beat the Competitor's Price by 20% or 30% or it's Free**" are, in fact, empty claims that are inherently deceptive because mattresses made by the same manufacturer are sold under "exclusive" mattress names by each retail store. In addition, the mattress advertisements typically state only the name of the manufacturer and the mattress "line" but not the name of each specific mattress. The net effect of such advertising is to mislead consumers into believing that one store has a significantly better price than another store, when it is simply impossible to make such a comparison.

In addition to several other deceptive advertising practices, there also appear to be several industry-wide deceptive practices regarding mattress warranties. For example, there appears to be a conflict between the way in which manufacturers measure and calculate alleged warranty defects and the way in which the polyurethane foam industry believes that alleged defects should be measured and calculated.

Accordingly, we urge the Federal Trade Commission to consider investigating the advertising and warranty practices in the mattress industry. We would be more than happy to share the information we have obtained and to assist with such an investigation.

Sincerely,



Eric S. Friedman
Director

ESF/RL/wd